

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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GARY E. LaROCK,

Plaintiff,

v.

9:12-CV-503

MICHAEL J. AMATO, Sheriff;  
MICHAEL FRANKO, Jail Administrator,

Defendants.

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THOMAS J. McAVOY  
Senior United States District Judge

**DECISION and ORDER**

This *pro se* action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In his June 4, 2013, Report-Recommendation and Order, Magistrate Judge Hummel recommends that Defendants' motion for summary judgment, Dkt. # 16, be granted with respect to Plaintiff's condition of confinement, access to courts and counsel, and freedom to practice religion claims. Further, Magistrate Judge Hummel recommends that Defendant's motion for summary judgment be denied with respect to Plaintiff's Equal Protection claim and his Procedural Due Process claim regarding his continued placement in

Involuntary Protective Custody. No objections to the Report-Recommendation and Order have been filed, and the time to do so has expired.<sup>1</sup>

After examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

Accordingly, the Court adopts the Report-Recommendation and Order for the reasons stated therein.

It is hereby ORDERED that Defendants' motion for summary judgment is GRANTED in part and DENIED in part. Plaintiff's Eighth Amendment claims concerning the conditions of confinement; his claims under the First and Sixth Amendments concerning access to courts and counsel; and his First Amendment claim concerning freedom to practice religion are DISMISSED. The motion is DENIED with respect to Plaintiff's Equal Protection and procedural due process claims.

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<sup>1</sup> The Docket indicates that the Report-Recommendation and Order was served on Plaintiff at his last known address at San Joaquin County Jail, but was returned as "undeliverable" with a notation on the envelope that reads "Returned To Sender . . . Not Here." Plaintiff provided no forwarding address.

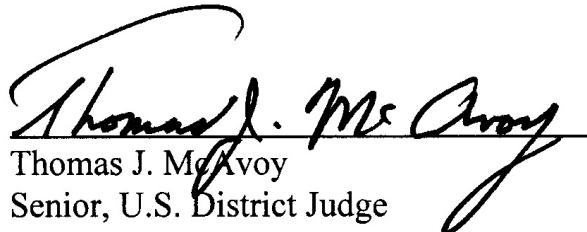
The Local Rules require all *pro se* litigants to "immediately notify the Court of any change of address," Local Rule 10.1(c)(2), and clearly advises parties that "[f]ailure to notify the Court of a change of address in accordance with L.R. 10.1(c)(2) may result in the dismissal of any pending action." Local Rule 41.2(b).

In light of Plaintiff's failure to advise the Court of a forwarding address, the Court deems the Report-Recommendation and Order as unopposed.

Plaintiff is advised that this action will be dismissed pursuant to Fed. R. Civ. P. 41(b) and Local Rule 41.2 if he fails to prosecute this matter.<sup>2</sup>

IT IS SO ORDERED.

Dated: September 30, 2013

  
Thomas J. McAvoy  
Senior, U.S. District Judge

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<sup>2</sup> Plaintiff had requested, and was granted, an extension of time to respond to the motion for summary judgment, but did not submit any opposition. As indicated in n.1, he has not advised the Court of a forwarding address.